



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No: 4316-99  
20 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. Notwithstanding your contention to the contrary, your Enlisted Service Jacket (ESJ), which you describe as your "201 file", was available for review by the Board. The Board also considered the statement of your counsel.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board did not accept your contentions to the effect that you were wounded in action in Lebanon and entitled to the Purple Heart and Navy Commendation Medal, or that you received a "battlefield commission" while serving in Lebanon. These contentions are not substantiated by your naval record, and the Board considered them to be recent fabrications. With regard to your alleged wounds, the Board noted that you testified before the Board of Veterans Appeals on 12 April 1968, and stated that you had never been in combat. You also stated that injuries to your nose and lips, which you now claim were combat wounds, were the result of a shipboard accident. The Board noted that as you did not serve in combat, you could not have received a "battlefield commission". In addition, it noted that given your extensive disciplinary record and substandard performance of duty, you would not have been considered for commissioning under any circumstances, or been recommended for the Navy Commendation Medal.

The Board concluded that in view of your false statements concerning your alleged wounds, recommendation for awards, and commissioning, none of the other self-serving statements made in support of your application should be believed. In this regard, it notes that there is no substantiation in your record concerning the blood transfusions you allegedly received. Although several physicians have stated that you received the transfusions, their statements are based on what you told the physicians, rather than their review of actual treatment records.

The Board declined to remove the non-pay periods listed on your DD Form 214, because they reflect periods of absence without authority for which you received nonjudicial punishment.

Although it is possible that you suffered from toxoplasmosis at the time of your discharge from the Navy, the condition may have existed prior to your enlistment, or been incurred after your discharge. In any event, there is no indication that you were unfit to perform the duties of your rate by reason of physical disability at the time of your discharge, which is a prerequisite to disability retirement or separation from the Armed Forces. In addition, it noted that as you were discharged by reason of unfitness based on your frequent involvement of a discreditable nature with military and civilian authorities, you would not have been entitled to consideration of your case by the disability system even if you had been unfit for duty.

The fact that the Department of Veterans Affairs(VA) has awarded you "service connection" for several conditions was not considered probative of your contentions of error or injustice. In this regard, the Board noted that the VA may assign disability ratings throughout a veteran's lifetime for conditions such as yours, which are thought to be traceable to a period of military service. The issue of a former service member's fitness to perform military duties as of the date of separation or retirement is immaterial to the issue of entitlement to the award of "service connection". The Board concluded that the VA decision to award your service connection is defective in that it was based in large part on the VA's acceptance of fraudulent evidence and inherently incredible statements you submitted in support of your claim for benefits. In addition, the Board felt that review of your record by the VA was cursory and its decision granting you service connection was not well reasoned. The Board believes that review of your file by the VA Inspector General would likely result, at a minimum, in reversal of the grant of service connection for the conditions you claim resulted from your Navy service.

Correspondence filed in your record indicates you were issued the Armed Forces Expeditionary Medal on 13 March 1975. The available records do not substantiate your claim for any other awards or decorations, marksmanship badges or the "Post WW II Germany Occupation 19534 [sic]". The requested administrative corrections to the DD Form 214 should be submitted to the National Personnel Records Center for disposition.

In view of the foregoing, your application has been denied. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request. You are entitled to have the Board reconsider its decision upon submission of new

and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director